

REMARKS

Claims 21-28 and 30-35 are now pending in the application. By this amendment, Claims 21-26 and 30-33 have been amended and Claims 29 and 36 have been cancelled without prejudice or disclaimer of the subject matter contained therein. The basis for these amendments can be found throughout the specification, claims, and drawings originally filed. No new matter has been added. The preceding amendments and the following remarks are believed to be fully responsive to the outstanding Office Action and are believed to place the application in condition for allowance.

The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 22 and 31—33 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite

This rejection is respectfully traversed.

The term "main body" of Claim 22 has been replaced with the term "first portion." The term "first portion" has proper antecedent basis from independent Claim 21. Claim 31 has been amended to call for "a sensor" while Claims 32-33 have been amended to depend from Claim 31. In this manner, the term "sensor" has proper antecedent basis in Claims 31-33. Reconsideration and withdrawal of the rejections is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 21 and 24-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Babatz et al (U.S. Pat. No. 6,237,987).

Claims 21-23, 30, 34, and 35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Frank (U.S. Pat. No. 5,255,953).

This rejection is respectfully traversed.

At the outset, Applicants respectfully submit that this rejection is moot with respect to Claims 30-35, as Claim 30 has been amended to include allowable subject matter and Claims 31-35 depend from Claim 30. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 21 calls for a load transfer element for a vehicle door having an inner panel and an outer panel. The load transfer element includes a first portion having a first surface attached to the inner panel and a second surface facing the outer panel and formed on an opposite side of the first portion from the first surface. See FIGS. 2-4. In addition, independent Claim 21 calls for a second portion extending from the first portion and having an upper surface and a lower surface formed substantially perpendicular to the second surface, wherein a clearance is defined between the lower surface of the second portion and the second surface of the first portion. See FIG. 4. Babatz and Frank fail to teach such a relationship.

Babatz teaches a load transfer element (8) positioned between an inner panel (2) and an outer panel (3). See Babatz at Col. 4, Ins. 24-35 and FIG. 2. The load transfer element includes a substantially square shape and therefore fails to teach a first portion cooperating with a second portion to define a clearance. Therefore, Babatz fails to

teach each and every element of the claimed invention.

Frank teaches a vehicle door (10) including a load transfer element having a plurality of hollow chamber profiles (40). See Frank at Col. 3, Ins. 3-5 and FIG. 2. The lower-most chamber profile (45a) is disposed generally at the bottom of the door "partially below the uppermost, substantially horizontal surface (50a) of a door sill (50)." See Frank at Col. 3, Ins. 6-11 and FIG. 2. In this manner, the load transfer element of Frank fails to teach a clearance formed between first and second portions. Therefore, Frank fails to teach each and every element of the claimed invention.

Independent Claim 26 calls for a door assembly including an inner panel and an outer panel fixedly attached to the inner panel, whereby the inner and outer panels define an interstitial space therebetween. See FIG. 4. A load transfer element is disposed within the interstitial space and transfers an applied load from the outer panel to the inner panel while minimizing energy absorption of the applied load and is positioned within the interstitial space so as to avoid a test load from an FMVSS 214 barrier. See Specification at pg. 10, Paragraph [0028] and FIG. 5.

The Examiner has indicated that now-cancelled Claim 36 contains allowable subject matter. See Office Action mailed January 11, 2005 at pg. 6. Now-cancelled Claim 36 calls for a load transfer element positioned within an interstitial space of a door so as to avoid a test load from an FMVSS 214 barrier. Applicants have amended independent Claim 26 to recite a similar limitation. Applicants respectfully submit that the art of record fails to teach or suggest positioning a load transfer element within a vehicle door in such a manner. The Babatz reference teaches a load transfer element assigned to an outside handle arrangement of a vehicle door. See Babatz at Col. 3, Ins.

29-30. However, the Babatz reference fails to teach or suggest positioning the load transfer element within the door to avoid a load applied by an FMVSS 214 barrier. Therefore, Applicants respectfully submit that independent Claim 26, as well as Claims 27-28, dependent therefrom, are in a condition for allowance for at least this reason.

Because Babatz and Frank fail to teach a load transfer element having a first portion and a second portion cooperating to define a clearance, and further, because Babatz fails to teach or suggest positioning a load transfer element within a door so as to avoid a load applied to the door by an FMVSS 214 barrier, Applicants respectfully submit that Babatz and Frank fail to teach each and every element of the present invention. Accordingly, Applicants respectfully submit that independent Claims 21 and 26, as well as Claims 22-25 and 27-28, respectively dependent therefrom, are in condition for allowance. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claims 31-33, are rejected under 35 U.S. 103(a) as being unpatentable over Frank in view of Kitagawa (U.S. Pat. No. 6,312,045).

This rejection is respectfully traversed.

Independent Claim 30 is believed to be in condition for allowance in light of the remarks contained above. Because Claims 31-33 depend from independent Claim 30, dependant Claims 31-33 should similarly be in a condition for allowance for at least the same reasons. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

ALLOWABLE SUBJECT MATTER

The Examiner states that Claim 36 contains allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have amended independent Claim 30 to include the limitations of allowable Claim 36. Applicants respectfully submit that independent Claim 30, as well as Claims 31-35, dependent therefrom, are in condition for allowance.

Applicants have also amended independent Claim 26 to include the allowable subject matter of Claim 36. Applicants note that the prior art of record fails to teach or suggest positioning a load transfer element within an interstitial space of a vehicle door to avoid contact with an FMVSS 214 barrier. Applicants therefore respectfully submit that independent Claim 26, as well as Claims 27 and 28, dependent therefrom, are in condition for allowance for at least this reason.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Final Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this

application, the Examiner is invited to telephone the undersigned at (248) 944-6526.

Respectfully submitted,

By: 

Matthew H. Szalach, Reg. No. 53,665
(248) 944-6526
Attorney for Applicants

Ralph E. Smith
CIMS 483-02-19
DaimlerChrysler Intellectual Capital Company LLC
DaimlerChrysler Technology Center
800 Chrysler Drive
Auburn Hills, MI 48326-2757
248-944-6519